In the Supreme Court of the United States

OCTOBER TERM, 1969

No. 608

ARNOLD CORNMAN, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINION BELOW

The opinion of the Court of Claims (Pet. App. A) is reported at 409 F. 2d 230.

JURISDICTION

The judgment of the Court of Claims was entered on April 11, 1969. A petition for rehearing was denied on June 20, 1969. The petition for a writ of certiorari was filed on September 17, 1969. The jurisdiction of this court is invoked under 28 U.S.C. 1255(1).

QUESTION PRESENTED

Whether 19 U.S.C. 1619, which provides for an informer's award to persons submitting information

relating to violations of the customs law of 25 percent of the amount recovered by the government "but not to exceed $50,000 in any case," limits to $50,000 the award for any single submission of information, even though such information relates to violations by a number of persons.

STATUTE INVOLVED

Title 19, U.S.C. 1619 (Tariff Act of 1930 [46 Stat. 758, as amended, 49 Stat. 527]) provides:

§ 1619. AWARD OF COMPENSATION TO INFORMERS.

Any person not an officer of the United States who detects and seizes any vessel, vehicle, merchandise, or baggage subject to seizure and forfeiture under the customs laws or the navigation laws, and who reports the same to an officer of the customs, or who furnishes to a United States attorney, to the Secretary of the Treasury, or to any customs officer original information concerning any fraud upon the customs revenue, or a violation of the customs laws or the navigation laws, perpetrated or contemplated, which detection and seizure or information leads to a recovery of any duties withheld, or of any fine, penalty, or forfeiture incurred, may be awarded and paid by the Secretary of the Treasury a compensation of 25 per centum of the net amount recovered, but not to exceed $50,000 in any case, which shall be paid out of any appropriations available for the collection of the revenue from customs. For the purposes of this section an amount recovered under a bail bond shall be deemed a recovery of a fine incurred. If any vessel, vehicle, merchandise, or baggage is forfeited to the

> United States, and is thereafter, in lieu of sale, destroyed under the customs or navigation laws or delivered to any governmental agency for official use, compensation of 25 per centum of the appraised value thereof may be awarded and paid by the Secretary of the Treasury under the provisions of this section, but not to exceed $50,000 in any case.

STATEMENT

Petitioner furnished to the Treasury Department information regarding false pricing and invoicing practices of various Japanese steel companies in violation of the customs laws. Based on this information, the government collected $706,965.00 in fines and unpaid duties from 19 companies. (The amount collected from the individual companies varied from $120.00 to $302,380.00.) (Pet. App. A, pp. 2–3).

Petitioner thereafter applied to the Secretary of the Treasury under 19 U.S.C. 1619 for an informer's award. On February 6, 1967, the Secretary awarded petitioner the statutory maximum of $50,000.00 for the information which he had disclosed (Pet. App. A, p. 6; Pet. in the Court of Claims, par. 9; Answer, par. 9). In making that award, the Secretary relied on the express statutory language of 19 U.S.C. 1619, which authorizes the Secretary to pay "compensation of 25 per centum of the net amount recovered, but not to exceed $50,000 *in any case*" (italics supplied). These italicized words, *i.e.*, "in any case", had been consistently interpreted by the Treasury Department to refer to the service of furnishing false information, rather than, as petitioner contended, to refer to "each company for each individual violation" (Pet. App. A. 2).

Petitioner then commenced this action in the Court of Claims. On a motion and cross-motion for summary judgment, the court, per Justice Reed, granted the government's cross-motion and held that the phrase "in any case" was intended to limit compensation on the basis of the service provided without regard to the number of fines or duties recovered (Pet. App. A, p. 1). Judge Collins dissented.

ARGUMENT

The decision of the court below, sustaining the administrative award, is correct. Moreover, the question is not of importance or recurrent. To the contrary, the present case, as noted by the court below, is one of the "rare instances" where this unusual question has arisen (Pet. App. A, 5–6). Accordingly, review by this Court is not warranted.

1. The Court of Claims correctly held that the phrase "but not to exceed $50,000 in any case" does not authorize an award of separate informer's fees, each with a $50,000 limitation, for each separate violation covered in a single submission of information. There is no reason to believe that Congress intended the maximum amount of the award in two instances to differ simply because in one case $706,965 is received from one company while in the other the same amount is received from 19 companies. The administrative interpretation of the statutory language is a reasonable one.

The interpretation given to a statute by the agency primarily responsible for administering the statute is entitled to great weight, especially if the interpretation has been followed for many years. *Udall* v.

Tallman, 380 U.S. 1, 16; *McLaren* v. *Fleischer,* 256 U.S. 477, 481. In this case, the Treasury Department has consistently interpreted the statute this way since 1917 (Pet. App. A, pp. 5–6). Moreover, the statute has been reenacted by Congress twice since 1917 without changing the language in question. Tariff Act of 1922 (42 Stat. 988), Tariff Act of 1930, Sec. 619 (46 Stat. 758). These reenactments support the agency interpretation. See *Johnson* v. *Manhattan Ry. Co.,* 289 U.S. 479, 500; *United States* v. *Ryan,* 284 U.S. 167, 175.

2. Petitioner alleges that the decision below violates the "equal protection" clause, because he is being treated differently than "19 persons who could have provided the identical information." Pet. 11. But 19 persons would have received awards only if each had separately qualified by providing independent and original information. If each of the 19 separately qualified for an award, each would have had the exact same rights and been subject to the same limitations as the petitioner, including the $50,000 limitation.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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OCTOBER 1969.

U.S. GOVERNMENT PRINTING OFFICE: 1969